DOCUMENT RESUME

ED 118 488 SO 008 888

AUTHOR	Eaneman, Paulette S.
TITLE	Juvenile Justice. Second Edition.
INSTITUTION	Project Benchmark, Berkeley, Calif.
SPONS AGENCY	California Council on Criminal Justice, Sacramento.
PUB DATE	74
NOTE	53p.; For related documents, see SO 008 889-894
AVAILABLE FROM	Project Benchmark, 2150 Shattuck Avenue, Room 817, Berkeley, California 94704 ($1.50, $40.00 set of 30)
EDRS PRICE	MF-$0.83 Plus Postage. HC Not Available from EDRS.
DESCRIPTORS	*Court Litigation; Courts; Delinquency; Instructional Materials; Justice; *Juvenile Courts; *Law Instruction; Resource Materials; Role Playing; Secondary Education; Social Studies; *Social Studies Units; Teaching Techniques; *Youth Problems
IDENTIFIERS	California; *Project Benchmark

ABSTRACT

These classroom materials are part of the Project Benchmark series designed to teach secondary students about our legal concepts and systems. This unit focuses on the California juvenile justice system. The materials describe the historical and legal development of the system, juvenile court procedures, correction facilities, and various creative alternatives to the corrections system. The second section defines such legal concepts as due process, jurisdiction, hearsay evidence, beyond a reasonable doubt, preponderance of evidence, and moral turpitude. Suggestions for two sample lessons using the materials are included. The first lesson focuses on the alternative ways to improve the juvenile justice system. The second lesson provides directions, sample materials, and simulation role description for a mock juvenile hearing. (DE)

****
* Documents acquired by ERIC include many informal unpublished *
* materials not available from other sources. ERIC makes every effort *
* to obtain the best copy available. Nevertheless, items of marginal *
* reproducibility are often encountered and this affects the quality *
* of the microfiche and hardcopy reproductions ERIC makes available *
* via the ERIC Document Reproduction Service (EDRS). EDRS is not *
* responsible for the quality of the original document. Reproductions *
* supplied by EDRS are the best that can be made from the original. *
****

ED118488

U S DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

FEB 04 1976

JUVENILE JUSTICE

By

Paulette S. Eaneman, Project Director
Nancy Zupanec, Editorial Assistant

Editors:

Michel Lipman, Project Legal Writer
Judge Ross A. Carkeet, Tuolumne County
Judge Ellis R. Randall, Solano County
Judge Homer B. Thompson, Santa Clara County

PERMISSION TO REPRODUCE THIS COPYRIGHTED MATERIAL BY MICROFICHE ONLY HAS BEEN GRANTED BY
Paulette S. Eaneman
TO ERIC AND ORGANIZATIONS OPERATING UNDER AGREEMENTS WITH THE NATIONAL INSTITUTE OF EDUCATION. FURTHER REPRODUCTION OUTSIDE THE ERIC SYSTEM REQUIRES PERMISSION OF THE COPYRIGHT OWNER.

Single copies available on request from: Project Benchmark, 2150 Shattuck Avenue, Room 817, Berkeley, California 94704. Project Benchmark is the public information and education program of the Conference of California Judges.

SP 008 888

Second Edition

Copyright © 1974 by Project Benchmark

The preparation of these materials was financially aided through a Federal Grant from the Office of Criminal Justice Planning under the Omnibus Crime Control and Safe Streets Acts of 1968. The OCJP disclaims responsibility for any opinion or conclusions contained herein.

The Office of Criminal Justice Planning reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, and use such materials and to authorize others to do so.

Juvenile Justice

PAMELA MATTES IS 7-YEARS-OLD. She lives with her widowed mother in a cramped, dark apartment. Most days Pamela comes home from school and finds her mother drunk. Sometimes Mrs. Mattes gets moody and angry and severely beats her daughter. If Pamela's mother is unfit to care for her, what will happen to the little girl?

SHARON HOWARD IS 13-YEARS-OLD. She and her five sisters and brothers are in their mother's care most of the year. Sharon misses her father, who is in the Navy and often is away from home for months at a time. Lately Sharon has been quarreling with her mother. Several times this month she has run away for two or three days. If Sharon is beyond her mother's control, what will happen to her?

DONALD "BUZZ" MARTIN IS 15-YEARS-OLD. His parents are divorced; Buzz lives with his mother and stepfather. Buzz has run away from home three different times to visit his real father. When he has arrived there, his father's new wife has said, "Sorry, there's no room for you here." Now Buzz and two school friends have been picked up by the police and charged with breaking into a coin changer in a shopping center laundromat. What happens to Buzz next?

All three of these young people may be sent to juvenile court. In little Pamela's case, the court will probably declare her a dependent child and try to find a relative to care for her. If the court can't find a suitable relative, it will place Pamela in a foster home.

Quarrelsome Sharon might be made a ward of the court and placed on probation. Her probation officer will probably require Sharon and her mother to get family counseling.

And Buzz? After a court hearing, he, too, might be made a ward of the court. The judge might then place him on probation or send him to a boys' ranch or work camp.

Just what is this juvenile court that has so much power over young people's lives? What's the idea behind the juvenile justice system? Does it really help a young person in trouble? If the juvenile court ever enters your life, will you be treated fairly? If not, what can you do about it?

Back to the Beginning

A JUVENILE COURT FOR CHILDREN IS NOT A NEW IDEA. The juvenile justice system began several centuries ago in England. According to English common law, the king as *parens patriae*--or the father of his country--was the protector of neglected and dependent children. The United States established its first separate juvenile court in Chicago in 1899. California set up its first special court for children a few years later.

These early juvenile courts followed the philosophy of the English king. They thought the state should take over for a child's natural parents when the parents failed to take proper care of him. The court would try to act as a benevolent, wise parent doing what was best for the child. The people who created the juvenile justice system thought that children should not be subjected to adult criminal courts and state prisons, which were full of vicious and often violent criminals. They thought it was more important to rehabilitate the minor than to punish him for what he might have done. However, the court also believed that the community should be protected from someone who cheats or steals or harms others--whether he is 15 years old or 50.

Importance of Family

THE JUVENILE JUSTICE SYSTEM HAS ALWAYS EMPHASIZED the importance of home and family as a place for helping the young person. In fact, California law says the juvenile court should:

1. *Find for each minor, preferably in his own home, such care and guidance as will serve his spiritual, emotional, mental, and physical welfare and the best interests of the state.*

2. *Preserve and strengthen the minor's family ties whenever possible. Take the minor from his parents' custody only when his welfare or the safety of the public cannot be protected in any other way.*

3. *Find for a minor, when he is removed from his home, the care, custody, and discipline as similar as possible to that which his parents should have given him.*

LIMITED RIGHTS

IT USED TO BE that when a juvenile committed what would be considered a crime if he were an adult, he'd be brought in for an informal court hearing. The idea was to find out if he'd really done what he was charged with. The probation officer would tell the juvenile court judge about the case. The judge himself would then question the juvenile: "Is this true? Did you take parts from a car parked on Elm Street? What were you going to do with them?" If the juvenile's petition were sustained--that is, if the charges against him were found to be true--the judge would then look at the social report on the youth prepared by his probation officer and decide what could best be done to help the minor.

But some lawyers and others interested in children's rights didn't think much of these informal hearings. They said minors weren't getting the rights to which an adult would be entitled. They claimed there was no DUE PROCESS* for juveniles. The minor didn't get fair notice of the charges against him. He couldn't have an attorney represent and defend him at his hearing. He didn't always get to question witnesses who complained against him. Those witnesses who did testify were not sworn to tell the truth. And no one kept notes on what went on at these hearings.

THE LAW CHANGES

RECENTLY THE UNITED STATES SUPREME COURT took a look at our juvenile justice system. Was it really protecting the rights of the juvenile? In several landmark cases the Supreme Court said that juveniles were entitled to many more rights than they'd been getting. In California, however, juveniles already had many of these rights. We have laws guaranteeing juvenile rights which were passed in 1961--laws based mainly on the recommendations of the Governor's Special Study Commission on Juvenile Justice, created in 1957. But the Supreme Court in the *Kent* (1966), *Gault* (1967) and *Winship* (1970) decisions gave many important rights to juveniles not only in California, but all over the United States as well.

The decisions in these cases made it clear that it wasn't enough for the juvenile court to stand in place of the minor's parents. While the Court did not completely reject the idea of the protective role of the juvenile court, it did say that the minor is entitled to certain basic rights guaranteeing him a fair hearing.

KENT V. UNITED STATES

THE FIRST IMPORTANT DECISION CONCERNING JUVENILE RIGHTS was handed down in the 1966 U.S. Supreme Court case of *Kent v. U.S.* [383 U.S. 541]:

**Words and phrases defined in the glossary are capitalized the first time they appear.*

An intruder entered an apartment in Washington, D.C.; he raped and robbed the woman who lived there. Police later arrested 16-year-old Morris Kent because his fingerprints were found in the victim's apartment. At this time Morris was already on probation for breaking into several homes and for an attempted purse snatching.

Morris was taken to the Receiving Home for Children. There police questioned him repeatedly. He admitted the rape and robbery; he also confessed to several similar crimes. But during the week Morris was held at the Home before his hearing, no formal charges were filed against him.

At his hearing Morris was represented by an attorney his mother had hired. The attorney feared the judge would send Morris to adult court because the charges against him were so serious. The attorney told the judge, "Your honor, I am going to oppose your sending this case out of juvenile court. I have had Morris examined by a psychiatrist and it seems the boy is severely mentally ill and needs treatment. And your honor, I would like permission to see the probation officer's report on my client."

The judge refused to let Morris' attorney see the probation report. There was no juvenile court hearing. The judge did not talk or meet with Morris' mother or his attorney. He simply filed an order transferring the case to adult court. His order gave no reason for the transfer, except to say the judge was acting "after a full investigation."

In an adult criminal court Kent was found not guilty of rape by reason of insanity. But the court did find him guilty of housebreaking and robbery. Because he was mentally ill, the court sent Morris Kent to an institution for the criminally insane. He was also sentenced to an additional thirty to ninety years for the housebreaking and robbery.

Morris Kent took his case to the U.S. Supreme Court, which ruled in his favor. The justices thought that Morris' constitutional rights had been violated because the judge's decision to send the case to an adult court had been made without sufficient reason. The justices spelled out what should be done when the juvenile court wishes to give up JURISDICTION of a minor "suspected of serious offenses" and have him stand trial as an adult:

1. *There must be a hearing on the motion for the waiver--that is, on the motion to send the case to adult court.*

2. *The probation department must make a full investigation of the minor's background.*

3. *The minor is entitled to be represented by counsel. His attorney shall have full access to all the records which the judge considers in making his decision. The attorney shall also have a chance to question the truth of these reports.*

4. *The court must make a full investigation of the case so that a higher court can review the decision and make sure it is*

correct. And the juvenile court's report must state the reasons for sending the case to adult court.

In re Gault

THE SECOND IMPORTANT JUVENILE RIGHTS DECISION is *In re Gault* [386 U.S. 1]:

Gerald Gault, 15, was arrested in Arizona. The police charged Gerald with making indecent remarks over the telephone to a neighbor, Mrs. Cook. At the time of his arrest Gerald was already on probation for being with another boy when he stole a woman's wallet.

Gerald's parents were both at work when he was arrested. No one told them he had been taken to the juvenile detention center. When Gerald did not come home that evening, his mother and an older brother went to the center. There they found out why he had been arrested and learned that his hearing would be held the next day at 3 p.m.

Mrs. Gault went with Gerald to the court hearing. During the questioning Gerald admitted he had dialed Mrs. Cook's number. "But it was another guy who said those bad things," he told the judge. Mrs. Cook wasn't at the hearing. No witnesses were sworn and no record was kept of what was said during the hearing. Gerald was temporarily released after the hearing but told to return later.

At the second hearing the judge said there had been "some admission" that Gerald made the lewd statements over the phone. Again the complaining neighbor was not present; in fact the judge never spoke with her at all. The judge looked at the probation department's recommendations. Then he ordered Gerald to a state industrial school until age 21. That would mean six years.

At most, the sentence for an adult convicted of placing an obscene phone call would have been a $50 fine and up to two months in the county jail. Gerald took his case to the United States Supreme Court. His lawyer said Gerald had been denied "due process of law." The lawyer claimed, "He did not have a chance to confront his accuser or be represented by an attorney, and he did not have enough advance notice of the hearing so that he could prepare his defense."

DUE PROCESS GUARANTEED

THE SUPREME COURT RULED that Gerald Gault's attorney was right. The due process clause of the Fourteenth Amendment does apply to juvenile proceedings, it said. The Court spelled out exactly what juvenile courts must do before they may send a juvenile to an institution for violating a criminal law:

1. *Fair Notice-- The juvenile has the right to written notice of the charges against him. This notice must tell him exactly what law he is accused of violating. This notice must also give him adequate opportunity to prepare his defense to the charges.*

2. *Right to Counsel-- The juvenile is entitled to an attorney at every stage of the proceedings. If he or his parents cannot afford a lawyer, the court must appoint one. The juvenile can only waive--or give up--his right to counsel when the judge is sure that both he and his parents understand exactly what they are doing.*

3. *Self-Incrimination-- The juvenile must be told that he does not have to testify or make a statement. Out-of-court confessions should be corroborated--or backed up--by some additional evidence.*

4. *Confrontation and Cross-Examination-- The juvenile has the right to confront the witnesses against him. Witnesses against him can be cross-examined by the judge and the juvenile's attorney. All testimony should be taken under oath. Only competent and relevant evidence should be admitted during the hearing;* HEARSAY EVIDENCE *should generally not be admitted.*

IN RE WINSHIP

A THIRD U.S. SUPREME COURT DECISION which insures the due process rights of a minor during a juvenile court hearing is the 1970 case *In re Winship* [397 U.S. 358]:

Someone broke into a locker in a New York department store and stole $112 from a worker's purse. The police arrested 12-year-old Samuel Winship and charged him with the theft.

Samuel's case was heard in the Family Court of Bronx County. The judge listened to the evidence presented against Samuel. He also heard members of the boy's family say that Samuel was at home when the theft was supposed to have taken place.

At that time in New York a juvenile could be declared "delinquent" by a

PREPONDERANCE OF THE EVIDENCE; that is, just a little more evidence on one side than the other. It was not then necessary to prove the truth of the charges BEYOND A REASONABLE DOUBT or to a moral certainty. The judge in Samuel's case felt the charges hadn't been proved beyond a reasonable doubt. But he declared the boy delinquent anyway because he felt there was a little more evidence against Samuel than for him. In an adult criminal trial the prosecution would have had to prove its case beyond a reasonable doubt. Since this was not so in Samuel Winship's case, the judge sent the boy to a reformatory for eighteen months.

When Samuel's case reached the U.S. Supreme Court his attorney said, "Samuel has been deprived of his liberty for something that would have been considered a crime if committed by an adult. Therefore, Samuel is entitled to the same standard of proof that an adult would receive." That is, the charges against him must be proved beyond a reasonable doubt, rather than just by a preponderance of the evidence.

The Court ruled in favor of Samuel Winship. The justices declared that proof beyond a reasonable doubt is as much required during a juvenile hearing as the other constitutional safeguards applied in the *Gault* decision.

BALANCING OF RIGHTS

NOT EVERYONE FEELS that the U.S. Supreme Court did the right thing in giving juveniles many of the due process rights guaranteed to adults in criminal proceedings. In fact, Supreme Court justices Burger and Stewart wrote in the *Winship* decision:

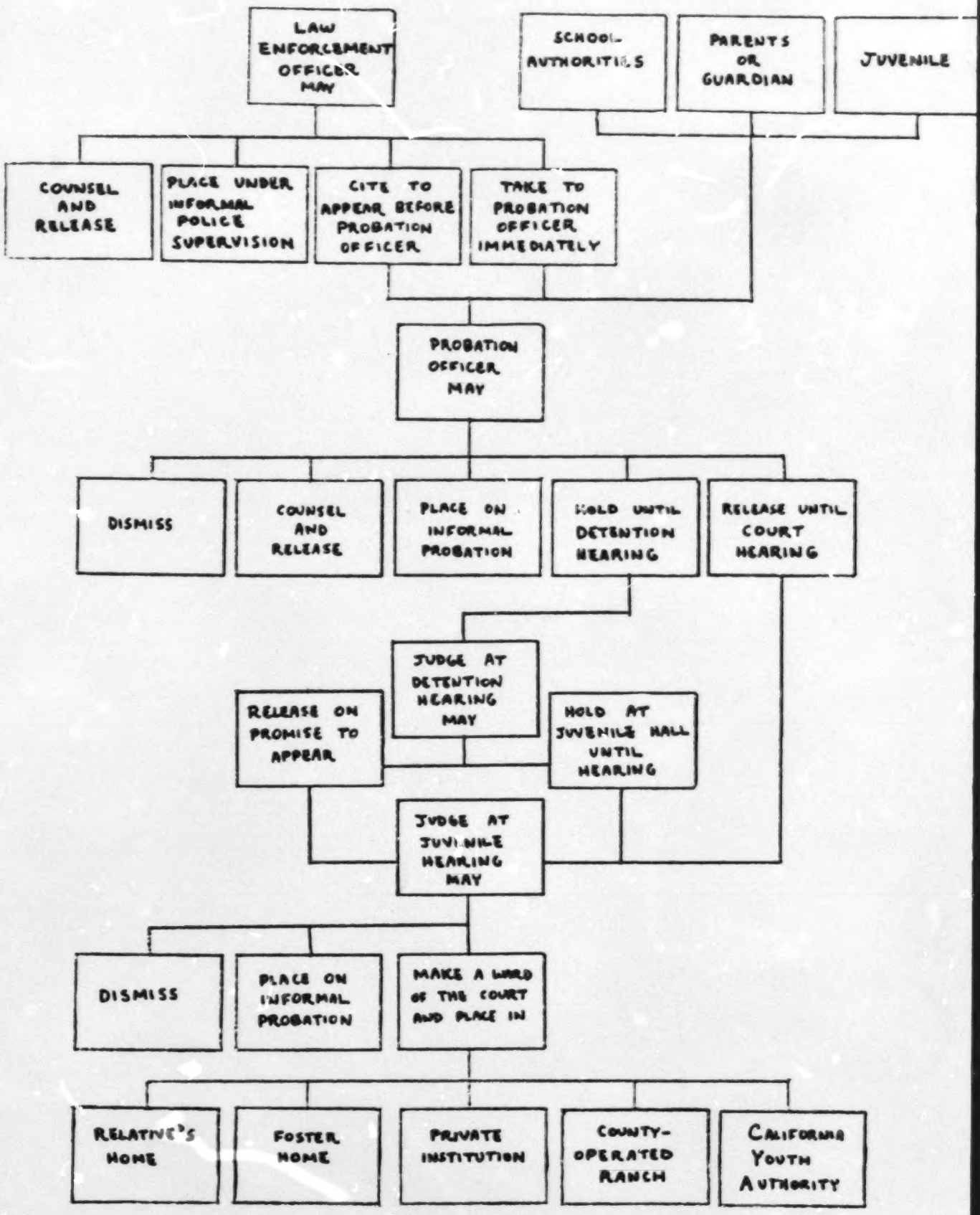
> *What the juvenile court system needs is not more but less of the trappings of legal procedure and judicial formalism; the juvenile court system requires breathing room and flexibility in order to survive, if it can survive the repeated assaults from this Court.* [397 U.S. at 376].

Other critics believe that while the Court has established certain constitutional guidelines in recent decisions, some juvenile courts have pushed too close to complete adult criminal court procedure.

One judge, Regnal W. Garff, in his *Handbook for New Juvenile Court Judges*, cautions judges who deal with juvenile matters:

> *If the positive aspects of the juvenile court are to survive it is imperative that judges keep their perspective and maintain a reasonable balance when considering any further expansion or logical extensions of Supreme Court rulings pertaining to juvenile*

JUVENILE COURT PROCESS



rights. The ultimate consequence would be the establishment of an adversary, criminal court for little children with full homage paid to legal technicalities but perhaps little or no attention to the special needs of the child. (p. 25).

What do you think?

Do you think you should have *all* the rights of an adult, including the right to bail and the right to a trial by jury?

Would you want all of these rights if, in addition, your hearing--or trial--would be open to the public? If a newspaper reporter might cover your trial and put your name in the paper?

Would you want all of these rights if it meant that you could be sent to the county jail or a state prison rather than to the California Youth Authority or some other special institution for minors?

JUVENILE COURT PROCEDURE

CALIFORNIA LAW REQUIRES THE SUPERIOR COURT to sit as a juvenile court when cases arise involving persons under 18. Although the juvenile court's procedures are more flexible than those of adult courts, the aim is to uphold standards of fundamental fairness.

SECTION 600

THE JUVENILE COURT HAS JURISDICTION or power over persons under 18 who fall into one of three categories. The first category is defined in California's Welfare and Institutions Code section 600; this says a minor may be declared a dependent child of the court--placed under the court's care--if:

1. *the minor is in need of proper and effective parental care or control;*

2. *the minor is not provided with a suitable home;*

3. *the minor is physically dangerous to the public because of a mental or physical disorder; or*

4. *the minor's home is unfit by reason of neglect or physical abuse.*

Such a child comes to juvenile court through no fault of his own. Section 600 is aimed primarily at those who have custody of the minor. The court hearing revolves around the question of a parent or guardian's fitness, not around any wrongdoing on the part of the child.

Suppose 7-year-old Pamela Mattes received a juvenile court hearing. The judge would examine her mother's actions and mental condition. If the judge found that the girl's mother neglected and abused her, he would declare Pamela a dependent child of the court.

SECTION 601

THE SECOND CATEGORY IN WHICH MINORS MAY BE PLACED is found in section 601 of the Welfare and Institutions Code. This section says that a young person may be declared a ward of the court--subject to court control--if he is:

1. *beyond the control of his parents or guardians; or*

2. *"in danger of leading an idle, dissolute, lewd, or immoral life. . ."*

Section 601 is often applied when a minor continually runs away from home. But because none of the acts described in the section would be considered crimes if committed by an adult, the statute is often attacked. Critics claim that the behavior described in section 601 isn't clear; they argue that the question of delinquency becomes a matter of definition and degree.

It takes more than one misdeed to establish a case of delinquency. Juvenile courts usually insist upon a course of misconduct--not a single act. Sharon Howard quarreled with her mother frequently. And she ran away from home three times in only one month. The juvenile court might have felt that Sharon's actions showed she was beyond her parents' control; if so, the court might have declared Sharon its ward.

Sections 601.1 and 601.2 also deal with non-criminal behavior problems--for example, a juvenile who is a habitual truant from school. Section 601.1 states that a school attendance review board must consider the juvenile's problems, meet with him and his parents or guardians, and attempt to find available community resources to help him. Only if the board can find no local help can it refer the minor to the juvenile court. After a hearing, the court may then declare him a ward of the court. Section 601.2 states that any parent who does not cooperate with the attendance review board in attempting to help the juvenile may be found guilty of a misdemeanor.

SECTION 602

THE THIRD CATEGORY UNDER WHICH JUVENILES MAY FALL is defined in section 602 of the Welfare and Institutions Code. Under this law, a minor may be declared a ward of the court if he commits an act which would be a crime if committed by an adult. When Buzz Martin was accused of stealing $27 from a laundromat, he was in violation of section 602. We will follow Buzz through the juvenile court system in an attempt to examine its workings in detail.

MINOR'S APPREHENSION

THE JUVENILE COURT PROCESS USUALLY BEGINS when a police officer picks up a minor. The officer may, without a warrant, take a minor into temporary custody if the officer believes that the youth is a person described in sections 600, 601, or 602. Or the officer may apprehend a minor if he believes the young person has violated a juvenile court order or the terms of his probation. Occasionally school authorities or parents begin the juvenile process by reporting alleged problems or offenses. And sometimes a minor himself brings about an investigation of his home or school situation by complaining to juvenile authorities.

In Buzz's case, there was no police officer near the laundromat when Buzz and his friends were said to have broken into a coin changer there. But two women entering the laundromat saw the boys standing in front of the coin machine with money in their hands. When the boys noticed people approaching, they ran; but the two women saw the boys clearly. One woman called the police, and both described the youths to Officer David Milton when he arrived. Officer Milton had a good idea as to the boys' identities; the town was small, and they had been in trouble before. So Officer Milton went to each of the boys' homes and asked Buzz and his friends to go with him to the police station for questioning.

Normally after apprehending a minor, the police officer has several alternatives. He may question and release the minor. He may place him in an informal police supervision program where the minor reports to the police department periodically or takes part in department-organized activities--such as a big-brother program, an intramural sports team, or an afterschool community cleanup project. The police officer may have the minor sign a notice to appear before a probation officer at a future date, and then release him. Or the officer may take the minor immediately to a probation officer, who must then investigate the minor's background and the facts surrounding his being taken into custody.

Buzz had been in trouble with the police before. He had frequently cut classes in school without permission, and he had run away from home several times. Buzz had already participated in the police department's program. And at the time of the laundromat incident, in fact, Buzz was under the supervision of Mrs. Pernell, a probation officer. Mrs. Pernell had authority to visit Buzz in his home and counsel him and his family.

PROBATION DEPARTMENT ALTERNATIVES

BECAUSE OF BUZZ'S PREVIOUS PROBLEMS and because he was now accused of breaking a law, Officer Milton decided to take Buzz to the probation department. Here the probation officer, like the police officer, faces a number of choices. The probation officer may investigate the incident and then decide to release the minor and take no further action. Or he may place him under probation department supervision. This means that the minor would receive a probation department hearing--the juvenile court itself would not be involved. And if the juvenile's parents consented, the probation department would arrange to supervise the child for a time. The probation officer's third alternative is to require the minor and his parents or guardian to appear at a hearing later. Or he may hold the minor in custody until the hearing. But the probation officer will only ask for detention in order to protect the minor or the personal safety or property of another person. Or to make sure that the minor will not run away before his scheduled court hearing.

For a minor to be held legally, however, the probation officer and the court must arrange a detention hearing so the judge can hear the probation officer's reasons for believing detention necessary. Like all juvenile court proceedings, the detention hearing is presided over by either a juvenile court judge (usually a superior court judge assigned to hear juvenile cases) or a referee (an attorney or experienced probation worker appointed by the court). The judge or referee makes the final decision regarding the minor's detention. If the judge orders it, the minor may be held in juvenile hall for up to fifteen judicial or working days to await his hearing.

Actually very few first-time offenders are required to have a hearing in juvenile court. Both the police and probation departments prefer to reprimand minors or seek counseling for them and their families, rather than have minors become involved in the juvenile court process.

DETENTION HEARING

IN BUZZ'S CASE, the probation department recommended that he be detained until his court hearing. Mrs. Pernell, the probation officer, thought Buzz might run away again. In addition, violation of a law meant that Buzz had broken the terms of his probation agreement.

Buzz's mother and stepfather, Mr. and Mrs. Boslow, received notice of

the detention hearing. And if Buzz had had an attorney, he, too, would have been contacted. California law requires the court to appoint an attorney for a minor if he wants one and cannot afford one. And in section 601 and 602 cases, the court will automatically appoint counsel for a minor if he appears at the detention hearing without a lawyer--unless the minor knowingly gives up his right to an attorney. Since the Boslows could not afford a lawyer for Buzz, the court appointed Matthew Kern, the public defender, to advise the boy.

Detention hearings are usually brief. Judge George Winston told Buzz and his parents why the boy had been taken into custody. He described the nature of juvenile court proceedings and explained Buzz's rights--including his right to counsel, his right to confrontation by and cross-examination of witnesses, and his privilege against self-incrimination.

Mrs. Pernell, the probation officer, then told Judge Winston the probation department believed that Buzz might try to run away to his real father's home before his court hearing. On the other hand, Mrs. Boslow said that she had talked with Buzz, that they had resolved some of their problems, and that Buzz had promised to remain with her. After considering the case, Judge Winston felt there was a serious chance that Buzz might run away. So he ordered the boy held in juvenile hall until his hearing.

JUVENILE HALL

BUZZ LIVED IN THE COUNTY JUVENILE HOME for almost two weeks. His room, like the others in juvenile hall, was a tiny cement cubicle furnished with a bed. No chair, no table, no posters. No closet for Buzz's clothes, since he had to wear the juvenile hall uniform of t-shirt, pants, and tennis shoes while there. The door to Buzz's room was kept locked at night while he slept.

During the day Buzz went to school. The juvenile hall provides teachers and textbooks so that no minor's education is interrupted during his detention. Juvenile facilities also include a gym and craft workshops. But Buzz found that time still passed slowly.

Like the other minors at the hall, Buzz was able to receive visitors at certain times--but only his attorney and members of his family. Mrs. Boslow could bring Buzz fruit or candy, but the rules forbade her to bring gum and she could not leave any extra food behind.

ADJUDICATORY HEARING

BUZZ WAS NERVOUS WHEN THE DAY ARRIVED for his court hearing. But he felt better when his attorney, Matthew Kern, explained to him a few things about the hearing. Mr. Kern said the probation officer is the one who initiates the proceeding--called an adjudicatory hearing--by filing a petition with the court. A petition is a document drawn up "on behalf of the minor"; it is not a criminal

indictment or information. And, as Matthew Kern explained, the petition alleges--it does not charge--delinquency, neglect, or dependency.

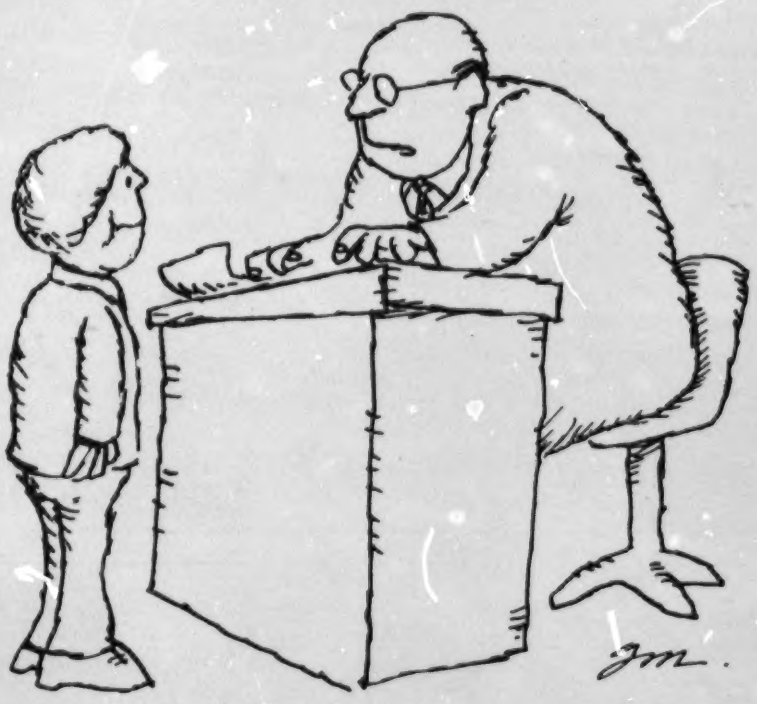
Buzz was glad that he was only 15. If he had been 16 or older, Mr. Kern said, he might have been prosecuted in an adult court. But Buzz's case could have been transferred there only if authorities felt no juvenile court treatment could help the boy. And only if Buzz received a proper hearing first.

Mr. Kern also told Buzz that the purpose of the adjudicatory hearing is to examine evidence relating to the petition's allegations. The public is not allowed to attend the hearing, except when the judge gives permission to a person who has a legitimate interest in the case or the juvenile process in general. Normal participants include only the judge or referee, the court reporter, the minor, his parents or guardian, his lawyer, the probation officer, and the district attorney.

The relationship between the probation officer and district attorney might have seemed confusing to Buzz, since their roles appear to overlap. The district attorney must attend the adjudicatory hearing if the minor is represented by counsel; otherwise he need not. His main duty is to help the probation officer find and present evidence. Depending on the particular court, either the district attorney or the probation officer will play a greater role in presenting evidence against a minor (or a parent in neglect or dependency cases).

Buzz, his parents, and the public defender, Mr. Kern, all received notice of the adjudicatory hearing. When it began, Judge Winston again advised Buzz of his rights. He again reminded him of his right to counsel, his right to present witnesses and to confront and cross-examine witnesses, and his right not to have to testify against himself.

After the judge spoke, the court clerk read the petition. Had Buzz admitted that what the petition said was true, Judge Winston would have questioned him to make sure he understood the claims against him. But Buzz denied he had actually broken into the laundromat's coin machine. So it was up to the state--through the district attorney and probation officer--to prove Buzz had done so by presenting evidence.



Except in section 602 proceedings, the rules for admitting evidence are not as clearly defined as in adult criminal cases. But any evidence allowed must be relevant and material to the juvenile court proceeding.

COURT HEARS EVIDENCE

TO HELP PROVE HIS CASE, the district attorney called the women to testify who said they had seen Buzz and his friends loot the laundromat. Mrs. Pedro, the older woman, was sworn:

"I saw these three boys standing in front of the coin changer. The one in the laundromat. That one--Buzz, isn't it?--he was holding a handful of money. Some change. Some bills. Well, I came in and the minute they saw me, bang! They took off as fast as they could, dropping some of the money."

The other woman, Mrs. Allistair, also testified. "I was right behind Rosa--Mrs. Pedro. I didn't see the money in anyone's hands, but I did see the three boys run. And I saw some money drop. I helped pick it up."

The public defender then questioned the two women. He asked Mrs. Pedro, "Did you at any time see Buzz touch the coin machine?"

"No, I didn't see that."

"Did you see him pry it open?"

"No."

"Did you see him take money out of the machine after it was broken open?"

"No. I just saw some money in his hand."

"Do you know if that money came from the machine?"

"No, I don't know that."

"Thank you, Mrs. Pedro, that is all."

Soon Buzz got a chance to speak.

"We just went into the laundromat to get a soda from the machine. And my friend Kenny said it might be fun to see if we could get into the coin changer. So Charley--my other friend, and me--we said, hey, Kenny, we better not. We didn't want to get in trouble. Then Kenny took a big screwdriver and he pried around, and pretty soon the door popped open and he took out a bunch of money. Then he handed me some and said he was going to get some more. It was right then those two ladies came in, and we got scared and ran."

The district attorney cross-examined Buzz. "Buzz, I'd like to clear up a few points. About that screwdriver, now. Where did Kenny get it?"

"Well, he had it with him, I guess."

"It's a very good screwdriver, the kind used by professional machinists, with the initials 'J.B.' on it. Have you any idea whose initials those are?"

"Well, uh--I guess they could stand for Jim Boslow."

"Isn't Jim Boslow your stepfather? And isn't he a machinist?"

"I guess so."

"Now when your two friends came by your house, and you went out with them, about what time was it?"

"Oh, maybe around eight o'clock at night."

"You met them out in the street--they didn't come into the house?"

"That's right."

"Well now, Buzz, your stepfather came home with his toolkit around six-thirty. And he says he had had that particular screwdriver in his kit all day. Will you explain, Buzz, how that very same screwdriver got into Kenny's hands when he decided to break open the coin changer?"

"I--I guess I sort of loaned it to him."

"You took the screwdriver from your stepfather's kit shortly before you went out to meet your friends? Isn't it rather unusual to take a screwdriver along when you're going out with your friends to buy a soda?"

As Buzz sat in embarrassed silence, the judge leaned forward. "Buzz, you went out with your friends fully intending to use that screwdriver to break into the coin changer, didn't you? And even if you didn't pry open the machine yourself, you knew it was going to be done and helped by getting the tool to do it with."

His head down, Buzz said nothing.

When all the witnesses had testified and all the evidence had been presented, Judge Winston had to decide whether or not Buzz had stolen $27--whether or not the court would sustain the allegations in the petition.

As we mentioned earlier, the Supreme Court's *Winship* decision made "proof beyond a reasonable doubt" the necessary standard of proof in juvenile cases--at least when the juvenile has been charged with an act which would be considered a crime if committed by an adult. This means that the judge must be con-

vinced to a "moral certainty" that the allegations against the minor are true.

If Judge Winston had found that the allegations of the petition had not been established, he would have dismissed the case and released Buzz. But Judge Winston believed beyond a reasonable doubt that the boy had been involved in the laundromat incident. So he ruled instead that jurisdiction had been established; that is, he said that the juvenile court was responsible for helping Buzz.

Disposition Hearing

THE NEXT STEP IS FOR THE JUDGE TO DECIDE which of the alternatives available to him will best help the minor. During the juvenile court's dispositional phase, the judge hears evidence--such as the probation officer's report of the minor's background and family situation--to help him reach a decision. Sometimes the jurisdictional and dispositional phases take place at the same hearing; the probation officer presents his report as soon as a finding of jurisdiction has been made. But often in a contested case, the judge will continue the hearing to a later date. He wants to give the probation officer and the attorneys more time to prepare their recommendations on how to help the minor. In any case, the judge is not allowed to see the social study report on the minor until *after* the judge decides that the allegations in the petition are true.

In our example Judge Winston continued Buzz Martin's case for a few days. During this time the probation officer, Mrs. Pernell, wrote a detailed report on Buzz, which she presented to the court at the disposition hearing. Her report included facts about Buzz's family--where his real father lived, what his stepfather did for a living, the ages of his brother and sister. It also included information about how the family members got along with each other and what particular problems they had that might have affected Buzz. Her report contained facts about Buzz's situation in school--his grades, attendance record, and general attitude toward teachers and fellow students. Mrs. Pernell wrote, too, about Buzz's previous problems with the law and his probation department supervision. Finally, she included the probation department's recommendation concerning treatment for Buzz.

Matthew Kern, the boy's attorney, then explained his plan for Buzz. And Judge Winston asked Buzz himself how he thought the court should handle his case. Buzz only said he hoped he wouldn't be sent away somewhere.

Disposition Alternatives

IF THE COURT DECLARES A MINOR A DEPENDENT CHILD--as in Pamela Mattes' case--the judge will often try to leave the child in his parents' home, under probation department supervision. But the judge may decide instead to place the minor in a relative's home or foster home or in a private institution that cares for needy or neglected children. In any event the judge will arrange for a hearing to be held not more than one year later to review the dependent child's situation.

If the judge finds the minor to be a person falling under section 601 or 602, he may do so without declaring the juvenile a ward of the court. In this case the judge may simply place the minor on probation for up to six months.

Suppose the judge declares the minor a ward. He must then decide which is the best method to help the child. As often as possible, the judge will try to leave the minor in his parents' home under a probation officer's supervision. But with both section 601 and 602 juveniles, the judge may choose instead to place the youth in a foster home, a public or private agency, a county ranch or camp, or the county juvenile home. It is also possible for the judge to send a 602 minor to the California Youth Authority.

In our case Judge Winston declared Buzz a ward of the court. He allowed Buzz to stay with his mother and stepfather. But he placed Buzz on probation and ordered him to report to Mrs. Pernell once a week. In addition--because of Buzz's truancy, his attempts to run away, and the nature of his present offense--Judge Winston ruled that Buzz would have to attend a county citizenship program every Saturday for ten weeks. Special classes would be held in the morning, and public work projects in the afternoon.

RIGHTS AFTER DISPOSITION

SUPPOSE THAT BUZZ, HIS PARENTS, OR HIS ATTORNEY had believed that one of the boy's procedural rights had been denied him. Buzz would then have had the right to appeal Judge Winston's decision. And at any time following the court's disposition, the parent or guardian of a dependent child or ward may ask the court for a new hearing to discuss evidence or different family circumstances, which might lead the court to change its original order. The probation officer, too, may file a supplemental petition to change a previous order. He may feel that the minor's actions or other circumstances indicate that the minor should be removed from his home and placed elsewhere, or committed to the Youth Authority.

Finally, California law further protects a minor who has been in the custody of the juvenile court or the probation department. The law says that a minor's records may be sealed when he reaches 18 years of age (or five years after the jurisdiction of the juvenile court has ended), provided the minor was not convicted of a felony or of a misdemeanor involving MORAL TURPITUDE--and if evidence of the minor's rehabilitation is satisfactory.

JUVENILE CORRECTIONS

CALIFORNIA'S JUVENILE CORRECTIONS SYSTEM is designed to pick up where the judge leaves off. Its purpose is to rehabilitate the young person who has gotten into trouble. We've read that when a minor is found to be delinquent, the judge may place him on probation in his own community, or send him to a county-

operated ranch or school, or, if his offense is serious enough, commit him to the California Youth Authority.

The judge has a duty to look at a young person as an individual. He must try to understand why he broke the school windows. Or why she took a sweater and lipstick from a local department store. It's not always easy, but the judge will try to see the differences between two youths who commit the same offense:

Ray Herbert stole a car. Ray is an above-average student. He has a close relationship with his parents and two younger sisters. His parents couldn't afford to buy him his own car. One evening Ray gave in to the urge to show off to his friends and "borrowed" a car, and told them it was his own. He was returning the car to the owner's driveway when the police picked him up.

David Belknap also stole a car and was picked up by the police. David is already on probation for shoplifting and theft. He lives with an older sister because he and his divorced mother don't get along. His sister says he talks back a lot and is always underfoot. David stole the car because he thought it would set him up with the crowd. It would make him feel important, as if he had money and a real family.

When the judge hears these two cases, he probably won't treat them the same even though what the two boys did was similar. The judge may well send Ray Herbert home with a stern warning and an order to help clean up the city park next Saturday. David Belknap's case is different. Previous probation hasn't helped the boy. He's living with people who don't want him around. He's unhappy and frustrated. He will probably steal another car, or maybe he'll do something even more serious. David deserves something better; and his community deserves protection from him until he gets his life in hand. The judge may send David to a county-operated ranch for six months or a year. Later the boy may be released on probation to a foster home, where he would have a better chance than he had with his own unhappy family.

PROBATION

JUST WHAT IS PROBATION? Probation places certain limitations on the juvenile to help rehabilitate him and to make him understand that he must accept some responsibility for his own misbehavior. Probation begins with the judge's order, which says you will be assigned to a probation officer. This officer will try to help you work out a plan to get along better at home, at school, in your community. He will see you at your home or in his office every week or so. He'll ask a lot of questions:

How are you getting along with your Mom and Dad? One of them may have a problem. Maybe Dad drinks too much. Maybe Mom gets depressed and yells a lot. Your probation officer may recommend counseling for them and you through the Family Service Association or some other community agency.

The officer will want to know if you're going to school regularly. Are you getting along with your teachers? Are your grades improving? Are you showing up for intramural basketball after school? Would you rather be taking auto shop than Spanish? Your P.O. may help you find a part-time job if you need one. Or he may arrange an algebra tutor to help you balance your equations.

The P.O will want to know about your friends. Are you still going around with Howie Johnson, even though the judge told you not to? Are any of your friends fooling around with drugs? Have you been out after curfew? The P.O. may order you not to see certain friends, at least those often in trouble with the law. He may ask you to take part in a probation department program, such as a group discussion session with other kids on probation. Or perhaps a vocational training program.

Finally, your probation officer will make regular reports to the juvenile court judge. He'll tell him how you're getting along. He can recommend that you be dismissed from probation. Or he can tell the judge that you should be continued for another six months or a year. Perhaps, if you get into more trouble, your probation officer will recommend to the judge that you be sent to a county-operated ranch or school.

COUNTY CENTERS

THE FIFTY-EIGHT COUNTIES IN CALIFORNIA have different types of juvenile programs. They are often called camps. Not every county has its own camp and many have places for boys only. All camps provide counseling and guidance.

FORESTRY CAMPS are for boys ages 16 to 18. They work a full day outside the camp and go to school part-time. Work includes clearing streams, building trails, and other conservation projects.

BOYS' RANCHES are for those 14 to 18. The daily program includes a half-day work on the ranch and a half-day in the classroom.

JUNIOR CAMPS are for younger boys, 13 to 16. They get a full day of academic instruction and supervised recreation.

GIRLS' SCHOOLS are for those 14 to 18. Regular school instruction including homemaking is usually part of the program. Girls sometimes attend nearby public schools.

SMALL GROUP HOMES house six to eight children of different ages. Children go to nearby public schools. They live in a regular house in a residential area with live-in staff members.

Juveniles who are successful in their camp programs are released and put on probation in their own communities. On the other hand, those juveniles who are released from camp and then get in trouble again will likely be sent to the California Youth Authority.

California Youth Authority

THE STATE LEGISLATURE CREATED the California Youth Authority in 1941. The CYA Director is appointed by the Governor for a four-year term; he is also the Chairman of the seven-member Youth Authority Board. This Board assigns wards of the court to one of several CYA institutions. The Board also approves parole or revocation of parole and sets the time when a ward may leave the CYA.

In recent years the CYA has moved from institutional treatment to community-based programs. As a result the number of young people in the CYA's camps and centers has dropped from 6,500 in 1965 to 4,200 in 1972. The CYA operates three reception centers, five forestry camps and eight institutions.

Every juvenile committed to the CYA goes first to a reception center-clinic for a complete diagnostic study. The staff checks the youth's physical health, psychological problems, and school and family history. Then the staff recommends a program to help the youth. This program must be approved by the Youth Authority Board. The youth may be placed on parole for treatment within his own community. Or he may be sent to a camp or institution. Most CYA facilities are for boys; they outnumber girls in the programs 10-1.

Young people sent to CYA's camps and centers receive academic and vocational training, counseling, and psychiatric treatment if necessary. They also participate in athletic and recreational programs, including arts and crafts. Wards may earn a high school diploma or even begin their college studies. However, all this takes place in CYA centers where the young people are locked in, night and day.

When a youth is paroled, he ordinarily goes back to his family or to a foster home. The CYA helps him obtain work or go back to school. Over 400 parole agents, working out of forty-two offices in California, supervise the activities of 13,000 CYA parolees. Juveniles are on parole for an average of two years.

The CYA is currently trying out some new programs. One is the Social, Personal and Community Experience (SPACE) project in Los Angeles. This project creates a bridge between CYA centers and the community. The SPACE center has twenty-five wards living in a remodeled convalescent hospital. When they first arrive, wards take part in reality therapy and role training exercises. They are also assigned jobs for which they are paid the minimum wage. Later they leave SPACE to find a real job in the community and a place to live. When they can show the parole board that their plan is working, they are released from the CYA.

Another new CYA program is an apprentice carpentry training program. In Amador County shop instruction goes beyond traditional woodworking and cabinet building. CYA officials hope this program will provide wards with full-time occupations upon their release. Although the program is new, a few wards have already been released on work furlough and are employed by Stockton contractors. They spend their days on the job. At night they stay at the DeWitt Nelson Training Center in Stockton. Each youth is paid the going rate for apprentice carpenters, $5.25 per hour. Other young people are now enrolled in the program designed to give them a trade that will assure them a living in the future.

CORRECTION ALTERNATIVES

NO MATTER HOW GOOD A JUVENILE JUSTICE SYSTEM IS, it is better for young people to stay out of it. The longer an offender remains in the juvenile court process, the less chance he will have to work his way out.

Many professionals who try to help young people are dissatisfied with the way the juvenile system works. Once a child is in the machine, they feel, it is often easier to process him than to look for more creative solutions. They want to try alternative methods that would cut down the minor's contact with the juvenile system. Described below are four experimental alternatives.

SACRAMENTO COUNTY 601 DIVERSION PROJECT

ONE PROGRAM DESIGNED TO KEEP YOUNG PEOPLE out of juvenile court is the Sacramento County 601 Diversion Project. The project was organized by members of the Sacramento County Juvenile Center probation staff. The project works primarily with minors who are apprehended on noncriminal grounds. That is, the staff handles cases involving family crisis situations and a long history of lack of communication among family members. In order to help, the project offers a diversion program of intensive counseling sessions with deputy probation officers. The first session comes within an hour of the young person's referral to juvenile authorities--while the crisis is hot. And there are more sessions, depending on the nature and complexity of the problem--though usually they are on a short-term basis. Results have so far been good, and the program may very well become a permanent part of the county's juvenile process.

YOUTH SERVICE PROGRAM

A SECOND PROGRAM TO HELP KEEP MINORS out of the juvenile system also depends on counseling. But it isn't based in the juvenile center. It is based in the police department, where arrested minors are brought first.

This Youth Service Program features university students and profes-

sional counselors who work together to help young people--before wrongdoing becomes a life pattern. YSP counselors work directly in the Costa Mesa and Huntington Beach police departments. Here they counsel minors and their families. The sessions take four to eight weeks and are purely voluntary. If a minor or his family asks for help, however, YSP workers try to open up communication among family members. They also set up informal "contracts" or agreements with juveniles to get them to accept responsibility for their actions.

The project's success is still to be measured. But the YSP seems to answer the frustration of at least one police officer with whom it works:

> *". . . by the time a youngster finally gets into the juvenile justice system, he's usually pretty well set down the wrong road. We know these kids need help, but we just don't have the time or the manpower to try to figure out their problems and help them on any long-term basis."*

The Youth Service Program is attempting to provide the time and the manpower.

East Palo Alto

BOTH THESE PROGRAMS attempt to keep minors out of court. A program in East Palo Alto tries to help juveniles by means of a court hearing. But theirs is a special neighborhood court set up to "'judge its own.'"

The court has a seven-member panel made up of young men and women--ages 16 to 30--from the largely black community. The aim of the court is to straighten out young offenders before they get into more serious trouble. "'We try to let them know we're here to take care of business,'" says the court's 19-year-old panel chairman. "'If they try to jive, we let them know we live in this community, too.'"

The panel zeros in on first offenders--youths sent to it by police officers, parents, and school or welfare officials. The panel handles cases ranging from theft to assault with a deadly weapon. And its "sentences" include such tasks as pulling weeds in vacant lots, working after school in neighborhood stores, and helping with household duties in homes the minors burglarized.

A project official says the court works because of community involvement: "'The kids see that they're being judged by people in their own community . . . . They see that someone is interested in them and not just in handing out some harsh punishment.'"

WINTERS' STUDENT PANEL

IN WINTERS, CALIFORNIA, TOO, a special court has been set up to hear juvenile cases. But the panel members are not just neighbors: they are fellow students.

The panel meets in the Winters Justice Court building. Students themselves choose the eleven members--all local high school students. Although the panel doesn't sit on some cases, such as traffic violations or cases in which guilt has not been decided, it does deal with a wide range of offenses--from stealing gas to assault.

The system works like this: If a youth is caught in an act of wrongdoing or there is strong evidence against him, he is arrested and later released to his parents. The case then goes to the police department's youth services officer, who gives the juvenile's parents a choice. The matter can be handled by the probation department at juvenile hall, or by Winters' student panel.

Students on the panel feel their large number keeps personal feelings from affecting their decisions. But as one local police official describes a typical decision: "'It's a tougher disposition than a first offender would get from me or from a judge . . . . It's tough, it's fair, and it somehow fits the offense. Most of all, though, it works . . . .'"

If parents feel their child is treated unfairly by the students, they may appeal the decision to county probation authorities. But the students' efforts in Winters clearly provide a workable alternative to the usual juvenile process.

Words and Phrases

DUE PROCESS - The concept of due process, as expressed in the Fifth and Fourteenth Amendments to our Constitution, may be divided into two parts: substantive and procedural. Substantive due process refers to the fairness of a law itself. Neither the legislative nor the executive branch may make "arbitrary, unreasonable or capricious" laws. Suppose, for example, Congress passes a law saying that men must pay twice as much tax on their incomes as women. Such a law would be unfair and a denial of substantive due process; the courts would declare it unconstitutional. Procedural due process refers to the way in which a just law is enforced; it prohibits unfair methods of applying the law. Imagine that our double tax law is revised--taxes are made equal for everyone. But suppose that any person who is late in paying his tax is immediately arrested and thrown into jail for a year, with no trial. Such an action would violate many of the person's basic rights. Even a delinquent taxpayer has a right to be notified of the charges against him, a right to a hearing, a right to an attorney, and so forth. Our courts would not permit such an unjust way of enforcing a law, even though the law itself is legal. (p. 3)

JURISDICTION - The term jurisdiction basically means a court's power "to hear and determine" a matter. Jurisdiction gives a court power over people and property, and it makes a court's decisions enforceable. For example, jurisdiction gives a court the authority to send a guilty man to prison or to fine him a certain amount of money. A court's jurisdiction is limited by the applicable provisions of the Federal or State Constitution and by statutes or laws enacted by the U.S. Congress or the State Legislature--i.e., a California statute says that the Superior Court has the jurisdiction or power to hear cases involving sums of $5,000 or more. (p. 4)

HEARSAY EVIDENCE - Evidence given by a witness repeating what he heard someone else say as opposed to what he himself heard or saw or smelled or felt. This kind of evidence is usually not admissible in court, and the jury cannot take it into account in making its decision. (p. 6)

BEYOND A REASONABLE DOUBT - Before the jury can convict the accused of a crime, it must be satisfied or convinced to a "moral certainty" that the charges against him are true. That is, the proof offered in the case must eliminate all doubt based on reason in the mind of the jury. (p. 7)

PREPONDERANCE OF EVIDENCE - Greater weight of evidence, or the evidence which is more believable and convincing than the other side's; not necessarily the greater number of witnesses or more exhibits. (p. 7)

MORAL TURPITUDE - Conduct contrary to justice, honesty, modesty, or good morals. (p. 17)

Sample Lesson

INTRODUCTION

Each teacher who reads this Education Unit on JUVENILE JUSTICE will probably consider these questions:

--How useful is this material to me and my students?

--How can I incorporate part or all of this material into a current or future study unit?

--How can I present this material to my students in an informative and interesting way?

Individual answers will vary according to the age, grade, and ability level of your students, and according to the courses you teach and the curriculum with which you must work.

The Sample Lesson included with this Education Unit is just one example of how you might present the material on Juvenile Justice to your own class. It's only a suggestion; feel free to modify this lesson or substitute one of your own design. And if you do teach a lesson on Juvenile Justice that succeeds with your class, please take the time to write down what you did that worked--a few sentences would be fine--and send the information to Project Benchmark, 2150 Shattuck Avenue, Room 817, Berkeley, California 94704.

- -

THE LESSON

A. CONCEPT: Juvenile Justice System

B. GRADE LEVEL: Secondary (9-12)

C. TIME NEEDED: One-Two Class Periods

D. OBJECTIVE: To evaluate the effectiveness of the present juvenile justice system and to develop an alternate plan to replace part or all of the current system.

F. PROCEDURES: This lesson should be presented after the students read and

discuss the material in JUVENILE JUSTICE.

1. Class reads "Comments on the Juvenile Justice System," in which critics of the juvenile process point out some of the problems with the current system. Class makes a list of the various criticisms of the system.

2. Class reviews the alternatives to the current juvenile justice system, which are mentioned in the sections on "Juvenile Corrections" and "Corrections Alternatives," pp. 18-24. Class makes a list of alternatives now being tried out in California.

3. Class considers the following questions regarding the juvenile justice system:

   --Should runaways go to juvenile court? If not, how should they be handled?

   --Should children who are abused or abandoned by the parents go to juvenile court? If not, how should they be handled?

   --Should the police or sheriff have the authority to send a juvenile to a social agency without first sending him to the juvenile court?

   --Should juveniles who commit crimes have all the rights of an adult, including bail and a jury trial? Why? Why not?

   --What kind of programs do you think would really help juveniles who commit crimes? Are you in favor of community treatment centers? Institutions like the CYA? Bars on the windows? An honor system? Academic instruction? Work programs? Counseling? Encounter group sessions? Citizenship training? Park cleaning?

   --Suppose you were Buzz Martin, the boy accused of theft in the section on "Juvenile Court Procedures," pp. 9-18, and the juvenile court judge asked you to prepare a plan to solve your own problems. What would you suggest to the judge?

   --If you had the power to abolish the entire juvenile justice system, what would you put in its place?

4. Ask each student to list five suggestions or changes that would improve the present system. Compile these suggestions into your own model juvenile justice system.

- -

NOTE TO TEACHER

You might consider asking a juvenile court judge or referee, a deputy

district attorney or public defender who handles juvenile cases, or a county probation officer to discuss with the class their list of suggestions for improving the system. You can reach these individuals by calling your county courthouse and asking to speak with the juvenile court judge's clerk.

COMMENTS ON THE JUVENILE JUSTICE SYSTEM

1. From a Los Angeles attorney who frequently represents juveniles in reference to the juvenile court:

   Four years ago, I was committed to preservation of the Juvenile Court Law and to seeking its full implementation as a system separate from the adult criminal process. But those who operate the juvenile system have compelled me by their conduct and demonstrated unwillingness (not inability) to see justice done for juveniles, to advocate complete abolition of this state's Juvenile Court Law for persons charged with the commission of crime. At least, even the present adult criminal process still preserves such rights as trial by jury and pretrial bail--and makes no false promises of treatment and rehabilitation in the name of which the juvenile criminal process daily deprives persons of constitutional rights with no counterbalancing benefits.

2. From a group of San Francisco lawyers, who represent juveniles in individual and class actions involving their rights, regarding new policies which they claim have led to an increase in the number of wards kept in California Youth Authority facilities and extension of the times they are serving:

   The most immediate impact of the CYA Board's new punitive policies and arbitrary actions is on the wards themselves. Although CYA institutions are unquestionably more constructive facilities than California's prisons, it is still extremely harmful for youngsters to be incarcerated beyond the period necessary for their treatment and the protection of the public. The costs to society for over-incarceration are also significant. The longer a youngster is incarcerated when . . . he knows that the staff wholeheartedly believes he should be paroled, the more likely he is to become embittered against the injustices of the CYA Board.

3. From a California superior court judge who hears juvenile cases:

   The present juvenile justice system ends up dealing with the results of criminal behavior instead of the causes and is consequently crumbling under its own weight.

   One of the major problems is the fact that we give the system far too many people for any court or probation department to handle in any sort of efficient manner.

We shouldn't bring the vast numbers of runaways, habitual truants, incorrigibles and dependent children before the courts. We should be dealing with them as social problems through social agencies. Because that's where they wind up after you get them through the court process, anyway.

4. From the president of a national organization which deals with crime and delinquency regarding the need for juvenile diversion projects:

The juvenile justice system is more destructive than constructive. Half of the 600,000 juveniles in detention homes in the nation are there because they were found to be truants, runaway or 'unmanageable.' Adults would not be punished for such crimes, and the offenses should be taken out of juvenile court. Federal grants should be made to 'non-coercive' shelters for runaways where youngsters could go for help knowing they would not be forced to return home.

5. From an 18-year-old male repeat offender who lives with his parents:

I was committed to Senior Boys Camp last time I went to court. I was there for possession for sale of P.C.P. Yes, the police read me my rights. I understood them 'cause when the officer read them to me he asked me if I understood them and I did. I had a public defender at the court hearing. The judge let me speak but I didn't have too much to say 'cause he told me I was going to camp. I think it was fair because I was arrested before on the same charges. Now I'm on probation and I am required to be of good conduct and obey laws, good attitude and obedience at home, report to and follow my probation officer, and to submit to drug tests. I think the system helped me by not sending me to adult prison. I think one thing they could do to improve the system is just to give everyone a fair chance and not to send people to jail for just minor offenses.

6. From a 17-year-old first offender who lives at home:

When I went to court I felt pretty bad. I was thinking about how this thing affects my parents. My charge was possession and sale of LSD. The police read me my rights, but I didn't pay too much attention because I didn't know what I could do with them. I was represented by a public attorney who didn't seem as though he cared very much about what was going to happen to me. I was given a chance to speak but I feel the judge didn't believe me. I thought my punishment was more fair than not because I knew I did wrong and had to pay. Now I'm on probation and I think I should live my life as straight as possible. After I got out of camp I came to a world of fear because everyone who knew I was at camp thought of me as a very low grade person. I think the system helped me very little because it left me at a cliff. To improve the system I would have judges be more like counselors so they could understand me--or whoever--and be able to help in a better way.

7. From a 17-year-old female repeat offender who lives at a county-operated camp:

I was charged with drug possession and being an uncontrollable runaway. I was represented by a public defender, but I don't think they do much good. I had a chance to speak at my hearing and the judge listened. But I think I should have come here a long time ago when I was younger. I think the system should be a lot stricter and not give a kid so many chances to change, going back to the same surroundings. Kids like me should be put somewhere for they can have adult supervision and people to work out their problems with.

8. From a 17-year-old male repeat offender who lives at a senior boys' camp:

I was charged with burglary. My rights were read to me two times. They also had me sign a paper that I understood the rights given to me. I was represented by a public attorney. I had a chance to speak to the judge but I didn't. I think the juvenile justice system helped me. It taught me that I can't beat the system no matter how hard I try. It taught me that I can take on more responsibility toward myself and others. It got me through school. I'd like camp better if they had a better recreation program, like taking people hiking and to football games.

9. From a 16-year-old repeat offender who lives at a senior boys' camp:

I was arrested for grand theft. They read me my rights at the time of the arrest. I was represented by a public attorney. I had a chance to speak during the hearing. But when I got deeper into the details, the judge started speaking to the D.A. The juvenile justice system did help me. But I would change the amount of time a person does when he is sent up. There should be a definite time when someone is to get out. I don't think my punishment was fair. I admitted what I did, and all the articles were returned. I felt that I should have went home.

10. From a 17-year-old male first offender who lives with his parents:

When I went to juvenile court for armed robbery the secretaries and businessmen there read my name off the list as if it were a number. I was represented by a private attorney. He was all right but he could have been better. He didn't hardly do anything in court and after that he took the $500 we paid him and went to Tahoe. The kind of chance I was given to speak in court wasn't a very good one. I wanted to tell my story but instead the judge asked me direct questions like why I did it. THEN, at that moment all the secretaries and all the business people in the courtroom stopped reading their papers--lifted up their heads--and give me a plain-faced stare as if this were the moment of truth. At that moment, my ego was shot and what could I say. The only thing any person is required to do when on probation is to do the job. And that's what I'm doing. The juvenile justice system helped me to understand the unseen ignorance of government.

Mock Juvenile Hearing

NOTES TO TEACHER

Juvenile hearings are not open to the public. California law says that only those people directly involved in a case may attend a juvenile proceeding; anyone else must have special permission from the court. This law exists to protect the privacy of the minor and his family, but this same law is also the reason that few citizens are familiar with the workings of our juvenile justice system. It prevents teachers from taking their students on a tour of the juvenile court. It restricts the amount of newspaper coverage given to juvenile proceedings. It may even be the reason why Perry Mason and Owen Marshall never venture into juvenile court.

While all of your students have some idea of what happens during an adult criminal trial, few of them are probably aware of what goes on at a juvenile hearing. And if one of your students is picked up for runaway or curfew violation or shoplifting or theft or drug possession, he will go to juvenile court. For these reasons you might want to put on a mock juvenile hearing right in your own classroom. Role-playing the hearing will give your students direct experience with the way this important part of our legal system functions.

This packet of materials should provide you as the teacher with all the information you and your students will need to conduct the hearing in your classroom. In addition to the "Notes to Teacher" section, these materials include:

1. Sample Petition -- facsimile of the official complaint prepared by the probation officer which explains the charges against the juvenile.

2. Sample Probation Report -- facsimile of probation officer's report which explains the facts of the case, outlines the juvenile's personal history, and makes recommendations to the court on how best to help the juvenile.

3. Role Sheets -- explain to each student player what his role is in the proceedings and what he should testify to if he is a witness.

4. Procedure Sheets -- explain the procedures to be used by the students in conducting the detention, jurisdiction and disposition hearings.

If you decide to put on this mock juvenile hearing in your classroom, here is how to go about it:

1. Teacher should: (a) read the entire kit; (b) discuss background material contained in the first section of this booklet with the class; (c) go over fact situation in the case of *In re Robert J.* with the class; (d) assign roles to students and answer students' questions about their roles, being certain to speak individually with those students who will role-play the Judge, the Probation Officer, the District Attorney, and the Public Defender; and (e) during the actual proceedings act as a supervisor, intervening only as necessary to give information or answer questions.

2. Background material to review with your class before discussion of *In re Robert J.* should include factual material in "Juvenile Justice," especially the section on "Juvenile Court Procedure," beginning on page 9.

3. Time required to role-play the mock juvenile hearing is four class sessions of 45 to 50 minutes each.

   Day 1 - Review background material with class.
   Discuss fact situation of *In re Robert J.*
   Assign roles to students.

   Day 2 - Answer student questions concerning roles, procedures.
   Conduct detention hearing.

   Day 3 - Conduct jurisdiction hearing.
   Conduct disposition hearing.

   Day 4 - Complete disposition hearing if not finished on Day 3.
   Discuss questions raised by conduct of hearings.

4. Roles to be assigned include:
   Juvenile Court Judge, Bailiff, Court Clerk, Court Reporter, Probation Officer, District Attorney, Public Defender, Juvenile Robert A. Jones, Jr., Juvenile's Mother Grace McKesson Jones, Witness Larry Jennings, Witness David Jacobs. All of those students who do not play actual roles in the hearings may act as silent judges deciding along with the court whether or not Robert Jones stole the car in question, and if he did, what the court should do to help him.

   Give each member of the class a copy of the first two pages of the "Sample Probation Report."
   Give each student a copy of the "Role Sheet" for his part.
   Give the Judge, Probation Officer, District Attorney and the Public Defender copies of the "Procedures Sheets."
   Give the Court Clerk a copy of the "Sample Petition."

Give the Probation Officer a copy of the complete "Sample Probation Report."

Caution all of the students not to discuss their roles with anyone unless you specifically tell them to. It will be necessary for the Probation Officer and the District Attorney to interview the witness David Jacobs who saw the Juvenile getting out of the stolen car. It will also be necessary for the Public Defender to talk with the Juvenile Robert Jones and his friend Larry Jennings to discuss testimony to be given during the jurisdiction hearing. Other than these two exceptions, students should not discuss their roles before the hearing starts.

5. Scenario for the mock hearing should include arranging your classroom to look like a courtroom, using the lectern for the Judge's bench; the teacher's desk (placed to the right of the lectern) for the Court Clerk and the Court Reporter; a chair for the witness stand placed to the left of the lectern; the attorneys and the Juvenile at a table facing the lectern; and the Bailiff at the door of the classroom. The Judge should wear a choir robe for the jurisdiction and disposition hearings.

Once the students conduct this hearing, they might want to put together the scenario for other hearings. The "Procedure Sheets" may be adapted to any case the students wish to hear in their mock juvenile court. The class would draft its own petition based on the format of the "Sample Petition" and would write its own probation report based on the "Sample Probation Report." From the facts in their hypothetical case, they would assign roles and proceed as before.

SAMPLE PETITION

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN ANGELES
JUVENILE COURT

PETITION

In the Matter of

ROBERT ARNOLD JONES, JR.

a minor

Petitioner is informed and believes and therefore alleges, that ROBERT ARNOLD JONES, JR., hereinafter called minor, resides at 44 LAWTON AVENUE, APARTMENT 206, SAN ANGELES, and was born on JANUARY 14, 1960 and was 14 years of age on APRIL 9, 1974, and comes within the provisions of Section 602 of the Welfare and Institutions Code of California, in that:

On or about APRIL 9, 1974 said minor was taken into custody DRIVING A VEHICLE DESCRIBED AS FOLLOWS: A 1971 DATSUN 610, LICENSE 888 XYZ BELONGING TO MR. ANDREW B. SCOTT OF 1201 WEST HOWARD DRIVE, SAN ANGELES WITHOUT THE CONSENT OF THE OWNER AND WITH THE INTENT OF DEPRIVING THE OWNER OF POSSESSION OF SAID VEHICLE THEREBY VIOLATING SECTION 10851 OF THE CALIFORNIA VEHICLE CODE.

The name and residence address of each parent and guardian, known to me, is as follows:

GRACE JONES MCKESSON, 44 LAWTON AVENUE, APARTMENT 206, SAN ANGELES
ROBERT ARNOLD JONES, 56 THELIN COURT, SAN ANGELES

The name and residence address of an adult relative residing within the county, or if there is no such person known, the name and residence address of the adult relative known to me to reside nearest the court, is:

SEE ABOVE

Minor was taken into custody by OFFICER LARRY GRANT OF THE SAN ANGELES POLICE DEPARTMENT on APRIL 9, 1974 at 7 P.M. Minor IS BEING detained. The present whereabouts of minor is SAN ANGELES JUVENILE HALL.

Therefore, petitioner respectfully requests that this minor be adjudged and declared a ward of the Juvenile Court and dealt with as such.

KENNETH E. HALE, PROBATION OFFICER

By _____
Deputy Probation Officer

I certify under penalty of perjury that the foregoing is true and correct, according to my information and belief.

Executed on (date) _____ Executed at (city) _____

SAMPLE PROBATION REPORT

SAN ANGELES COUNTY JUVENILE PROBATION DEPARTMENT
SUPPLEMENTAL PROBATION OFFICER'S REPORT

Date: May 1, 1974

To the Juvenile Court of San Angeles County
Concerning: *Robert Arnold Jones, Jr.*
Birth date: *January 14, 1960*
Birth place: *Vallejo, California*
Age: *Fourteen (14) Years*
Address: *44 Lawton Avenue, Apartment 206, San Angeles, CA*
Telephone: *921-6709*

PART I: JURISDICTION

Petition

The petition drawn by the probation officer alleges that

1. The person whose name, address, and age are shown in the above caption is under 18 years of age.

2. The person comes within the provisions of section 602 of the juvenile court law of California, in that: said minor, Robert Arnold Jones, Jr., on or about April 9, 1974, at and in the county of San Angeles, did remove from the premises and drive without permission a car belonging to Andrew B. Scott with the intent to commit theft, thereby violating section 10851 of the Vehicle Code of the State of California.

Reason for Hearing

This is the case of Robert Arnold Jones, Jr., a 14-year-old legal resident of San Angeles County, who is appearing before the juvenile court on a petition alleging auto theft.
According to the San Angeles Police Department's Crime Report #74-2098, and the investigation of this department, on or about April 9, 1974, Andrew B. Scott of 1201 West Howard Drive, San Angeles, left for work along with his wife at approximately 7:30 a.m. Upon returning to their house at 5:30 p.m. they discovered that someone had removed their second car, a 1971 Datsun 610 sedan, license 888 XYZ from the driveway next to their house. Mr. Scott immediately reported the missing vehicle to the San Angeles Police Department. Two officers, Roger Sears and Lonnie Wells, responded to the scene for the initial investigation. Neither Mr. Scott nor his wife could furnish any information to the police concerning who might possibly have stolen the car.

On or about April 9, 1974, at approximately 6:30 p.m., officers Sears and Wells were making a routine patrol of the residential neighborhood near the Scott

home when they spotted the car the Scotts had reported stolen just an hour earlier. The car was parked in front of the house located at 974 Higgins Drive. The officers approached the occupant of the house, a Mrs. Winifred Jacobs, and asked if she had any knowledge of how the car came to be parked in front of her house. Mrs. Jacobs responded that she had not even noticed the car was there until the officers pointed it out to her. However, David Jacobs, age 17, told his mother and the two officers that he had noticed the car when he arrived home from school at approximately 4 p.m. David Jacobs further stated that he saw a boy who lived nearby walk away from the car. When the boy saw David Jacobs looking at him, he turned and hurriedly walked off down the street. David Jacobs described the boy to the police and told them he believed the boy's name was Bobby and that he lived on Lawton Avenue.

On or about April 9, 1974, at approximately 7:15 p.m., the same two officers drove to Robert Jones' home at 44 Lawton Avenue, Apartment 206 in San Angeles. The officer knocked on the door and asked Mrs. Grace Jones McKesson if they could talk with her son Robert. Mrs. McKesson invited the officers into the apartment and called Robert into the living room. The officers asked Robert if he knew anything about the missing car; Robert replied, "No, absolutely not." Robert further stated that he had spent the entire afternoon in the apartment watching television with a friend Larry Jennings. Mrs. McKesson was at work at the time and could not vouch for Robert's whereabouts. Officers Sears and Wells then asked Robert to accompany them to the police station so that the person who claimed to have seen him getting out of the car could identify him. Robert was taken into temporary custody and transported to juvenile hall where he was positively identified by David Jacobs as the boy he had seen leaving the stolen car.

Statement of Minor

The minor was advised of his rights by Ms. Angela Wood of this department on April 10, 1974, at which time he indicated that he understood his rights. The minor stated to this officer that he denied the allegations of the petition and the incident summarized above.

Recommendations

It is respectfully recommended that

1. The allegations of the petition filed April 10, 1974 be found to be true as alleged;

2. Said minor be found to come within the provisions and description of section 602 of the juvenile court law.

PART II: SOCIAL STUDY

Previous Difficulties

According to the records of this department, the minor is making his second appearance before the juvenile court. The minor has been referred to this department previously for the following reasons:

On June 15, 1973, the minor was committed to juvenile hall by the police department for runaway. A petition was filed, and because the minor did not want to return home, and his mother was in favor of a relative or foster home placement, the minor was committed to the care of the probation officer for placement outside his mother's home. While the probation officer sought a suitable home for the minor, both the minor and the mother changed their minds, the order was set aside, and the minor was returned home on probation in August, 1973.

Probation Adjustment

The minor has been home on probation since August, 1973. Contacts during this time have been limited, but, according to the minor's present probation officer, the minor's mother, and school officials, the minor has made a fairly favorable adjustment in the time preceding this incident.

Present Whereabouts of Minor

The minor appeared at a detention hearing on April 10, 1974, and was ordered detained in juvenile hall pending the jursidiction hearing.

Statement of Minor

The minor stated repeatedly to this officer that he did not steal the car in question. He stated that the witness who identified him must be mistaken. He stated that he and a friend were watching television at his home when the car was supposed to have been stolen. He stated that his friend will back up his whereabouts on the afternoon in question. He stated that he has been getting along well at home since he has been on probation and has had no difficulties with his mother. He stated that he has had some problems in school because he does not like to play sports and sometimes refuses to suit-up for physical education. He stated that he is doing very poorly in math and science at this time. He stated that he knows he might go to the boys' ranch if the court finds he is lying about the car theft. The minor seemed very nervous and upset during this entire interview. He was visibly sweating, continually looking at the floor, and stuttering a good deal as he talked.

Statement of Parent

The minor's mother stated to this officer that she would be very surprised if the boy did steal the car. The mother stated that he had been doing quite well at home since he had been placed on probation. She stated he was helping her with the household chores and was obeying all the conditions of his current probation. The minor's mother is concerned about the boy being unsupervised from the time school lets out at 3 o'clock until she arrives home from work at 5 o'clock, but she has thus far been able to find someone to look after him during the afternoons. She stated that she has told the minor to come directly home from school and to remain in the apartment until she arrives home from work. She believes he has been coming directly home, but does not know for sure. The mother indicates that if the minor did steal the car in question, she is interested in doing what is best for the boy in order to avoid any future involvement with the juvenile court, even if this means temporary placement outside the home.

School Report

The minor is currently attending San Angeles Junior High School. He is in the eighth grade, and a report from the school indicates that his academic achievement is very poor. School officials believe that the boy is embarrassed because he is very much overweight and rather uncoordinated and that this is why he often refuses to participate in sports. They also state that the boy has very few friends and is somewhat of a loner. The minor will be accepted back by the school.

Juvenile Hall Report

During the minor's short stay in juvenile hall he has not been a behavior problem.

Personal and Family Background

This is the case of Robert Arnold Jones, Jr., a 14-year-old Caucasian of English and Irish descent who professes the Protestant religion. He was born in San Angeles, California, and has resided in this state continually for the past fourteen years. The minor is about thirty-five pounds overweight but has no history of serious illness or injury since birth. He is currently in the eighth grade at San Angeles Junior High School.

The minor's natural father, Robert Arnold Jones, Sr., resides in San Angeles. He has been divorced from the minor's mother for twelve years and has not seen his son for ten years. He is remarried and has five minor children with his second wife. Mr. Jones has no interest in the boy whatsoever and wouldn't recognize him if he saw him on the street.

The minor's mother, Grace Jones McKesson, is a 38-year-old Caucasian of Irish

descent. She was born in Arkansas, and has resided in California since 1947. She has completed high school and business school and is employed as a secretary in a San Angeles insurance office. Mrs. McKesson's first marriage was to the minor's natural father, Robert Jones, which terminated in divorce in 1962. Since that time she married Harold McKesson in 1963 in Elko, Nevada. Mr. McKesson died in August, 1967 in El Cerrito, California. He was separated from Mrs. McKesson at that time. The mother has no current boyfriend.

The minor is an only child.

Evaluation

This is the case of a minor who last appeared before the court in June of 1973. At that time, the minor appeared before the court as a runaway and refused to return home because of difficulties between himself and his mother. The minor, however, was eventually returned home on probation. Since that time, he has made an adequate home adjustment. The minor's attitude is still quite favorable about returning home to live with his mother, if the court will permit this.

It is this officer's opinion that the minor did take the car in question, probably intending to take it for a short ride and then return it. The car was found less than half a mile from where it was stolen, having been driven less than five miles. It is this officer's opinion that the incident occurred because the boy is unsupervised during the afternoon while his mother works. It is also the observation of this officer that the minor may need a physical evaluation and psychological counseling regarding his weight problem and the reasons that he overeats. Finally, this officer believes that the boy needs a strong male influence in his life, a father-figure to teach him about sports and to help him overcome his inability to relate with other people.

Recommendations

If the minor is found to come within the jurisdiction of the juvenile court, it is this officer's recommendation that the boy be continued on probation for at least one year under these conditions:

1. That the court emphasize the seriousness of the offense to the minor and mention the likelihood that any further problems of any kind will result in ranch placement.

2. That the minor's mother agree to provide adult supervision for the boy during the hours from 3 to 5 p.m. on school days and other times when she is not at home.

3. That the minor receive a physical examination from his family physician and that he then be interviewed by the local Family Service Association to see if he can be helped with whatever problems cause him to overeat.

4. That the minor take part in the local police department's big-brother program one afternoon a week and every other Saturday during the next year.

Probation supervision in this instance should be on a relatively intensive basis with emphasis on attempting to stabilize the supervision and disciplinary policies in the home and in encouraging the minor to identify and deal with any problems he may have.

Respectfully submitted,

Angela Wood
Deputy Probation Officer

ROLES

JUDGE

You are a superior court judge assigned to hear juvenile matters. You are responsible for everything that happens in your courtroom and you must maintain an orderly, dignified atmosphere at all times. It is your job to conduct the detention, jurisdiction and disposition hearings in the case of *In re Robert J.* You must see that the minor receives his due process rights, including his right to be represented by an attorney and his right to cross-examine any witnesses who testify against him. During the hearings you may question any of the participants directly from the bench. You must hear and consider all of the evidence presented during the hearings, and then you must decide--based on the evidence--whether or not the juvenile should come under the jurisdiction of your court. If you decide that the court does have jursidiction over the juvenile, you must decide what to do to help him. You should read the probation officer's report on the juvenile and consider his recommendations in the case. However, you should decide on your own if you wish to accept the probation officer's report, or if you think other action is called for. Before the hearings begin, you should carefully read the "Procedure" sheets and the first two pages of the "Probation Report." You won't read the second part of the "Probation Report" until the jurisdiction hearing is over.

BAILIFF

You are the Bailiff, and it is your duty to maintain order in the courtroom during the jurisdiction and disposition hearings. You will take the juvenile into custody at the end of the disposition hearing if the court orders him held in custody.

COURT CLERK

You are the Court Clerk. It is your job to read the petition aloud to the court at the beginning of each stage of the proceedings. You will also administer the oath to all those who will testify during the proceedings. After you read the petition, you should ask all those people who will testify during the proceedings to raise their right hands. Then ask them, "Do you swear that any statements you may make during this hearing will be the truth, the whole truth, and nothing but the truth?"

COURT REPORTER

You are the Court Reporter and it is your job to take down every word that is said during the course of the detention, jurisdiction and disposition hearings. You may use a tape recorder to take down all that is said, so that you

will be able to replay part of the testimony should the judge request you to do so.

PROBATION OFFICER

You are a Probation Officer employed by the county, and it is your job to present the case of *In re Robert J.* to the court. You are very familiar with the case because you prepared the petition and the probation report concerning the minor, Robert Jones. Before each stage of the proceedings you will explain to the minor and his mother and your class just what is going to happen. At the detention hearing you will present the evidence against the minor to the court and you will recommend to the judge that the minor be held in custody until his jurisdiction hearing. You will ask that he be held because by breaking a law--stealing a car--he has disobeyed the terms of his probation. Also, you feel he might run away before his court hearing. At the jursidiction hearing the District Attorney will present the evidence against the minor and will question the witnesses who testify. However, you must be present to answer any questions the judge may have for you. At the disposition hearing you will present your social study and your plan to help the minor to the court. You should be prepared to defend your report and to explain to the judge why you believe your recommendations will help the minor. Before the proceedings begin, you should carefully read the "Procedures" sheets, the "Sample Petition" and the "Sample Probation Report."

DISTRICT ATTORNEY

You are the District Attorney and you will assist the Probation Officer in presenting the case of *In re Robert J.* You will not be present at the detention hearing. However, you will take part in the jurisdiction hearing and you will be present at the disposition hearing. At the jurisdiction hearing you will present the evidence that indicates that the minor did steal the Scott car. Your presence is required because the minor denies the charges and says he was home watching television with a friend at the time of the theft. You will question witness David Jacobs who saw the juvenile getting out of the stolen car in front of the Jacobs house. You will also cross-examine any witness who testifies on behalf of Robert Jones. You may question Robert only if he first testifies on his own behalf. You are sure that Robert did steal the car, and you agree with the Probation Officer's recommendations to help the boy. Your role is a difficult one because while you must present evidence against the juvenile, you are also acting on his behalf. You want the court to find that the charges against the juvenile are true, but you also want to help Robert with his problems. You should carefully read the "Procedures" sheets and the first part of the "Probation Report" before the proceedings begin.

Public Defender

You are the Public Defender and it is your job to defend the juvenile in the case of *In re Robert J.* You will not be present for the detention hearing, but at that time the juvenile will request that an attorney be appointed to represent him. You will then be asked by the judge to represent the juvenile Robert Jones and his mother Grace Jones McKesson at the jurisdiction and disposition hearings. Before the jurisdiction hearing, you will wish to interview Robert and his friend Larry Jennings concerning their activities on the day of the car theft. You probably should speak separately with each of the boys. You suspect that Robert did steal the car in question, or at least knows who did, but that he is afraid to admit it for fear his mother will ask the judge to send him away to a foster home or boys' ranch. In any case, Robert denies that he stole the car and it is up to you to defend him to the best of your ability. During the jurisdiction hearing you will have the opportunity to cross-examine any witnesses who testify against your client. Of course, you will want to make sure that the witness is telling the truth and that he is absolutely certain of his testimony. Later you will have the opportunity to present evidence on Robert's behalf; in this case you will ask Robert to testify. His friend Larry Jennings will back up Robert's story. You will also represent Robert at the disposition hearing. If you feel that the Probation Officer's recommendation concerning Robert's future is unfair or unwise, it is up to you to tell the judge and to offer your own alternatives to help the boy. You should carefully read the "Procedures" sheets and the first part of the "Probation Report" before the proceedings begin.

Juvenile Robert Jones

You are Robert Jones, a 14-year-old junior high school student. You live in an apartment with your widowed mother. Your mother and father were divorced when you were two, and you don't remember your father at all. Your mother's second husband died a few years ago, and she went to work in an insurance office. You are a very shy, unhappy boy. You're not doing well in school, especially in math and science. You don't do well in sports and you often refuse to take part in your physical education class. You have few friends and you spend most of your free time daydreaming and eating. As a result, you are thirty-five pounds overweight and always trying to go on a diet.

After discussion with your teacher, you should decide on one of the following fact situations. Of the role-players, only you and your friend Larry Jennings should know what *actually* happened.

1) You did steal the car from the driveway on Howard Drive. The car was unlocked and too big a temptation to pass up. You drove the car around the neighborhood for ten or fifteen minutes and then got scared and parked it in front of a house about a half-mile from where you took it. You were just getting out of the car when a boy walked up to the house in front of which you parked. You don't think he saw your face and you hurry off towards your apartment house. You quickly call your only friend, Larry Jennings, and brag about the escapade; you feel very important. Larry says if the police find out about it, he'll tell them you were together and you couldn't possibly have stolen the car.

2) On the afternoon the car was stolen, Larry arrived at your house all excited and out of breath. After a few minutes he told you that he stole the car and drove it around the neighborhood--just to see what it was like to be in the driver's seat. You don't quite believe Larry's story and decide to go take a look at the car yourself. You find the car just where Larry said he left it. So you climb in just for a minute, just to look at the inside. Suddenly an older boy comes walking down the street. You quietly get out of the car and walk off down the street when he is distracted by a little girl, hoping he didn't see you. You and Larry decide to say you were together all afternoon because if the police arrest your friend, you're afraid your probation officer won't let you see him anymore.

During your detention hearing you will tell the judge that you deny the charges against you. When he asks if you wish to be represented by an attorney, you will answer "yes." When he asks if you want to go home until the jurisdiction hearing, you will say that you want to be with your mother. When your attorney talks with you before the jurisdiction hearing, you will tell him that you did not steal any car. You will state repeatedly that you and your friend Larry Jennings were watching television together at your apartment when the theft took place. You will look very nervous, but you will stick to your story. You will testify on your own behalf, telling the judge just what you told your attorney. You'll even be able to tell the court which programs you were watching that afternoon because you watch the same programs every day after school. At the disposition hearing, if the judge asks you about going to live in a foster home, you'll tell him you would rather stay with your mother.

WITNESS GRACE JONES MCKESSON

You are Juvenile Robert Jones' mother. You are 38 years old and currently working as a secretary in an insurance office. Your first husband left you for another woman twelve years ago when Robert was two; you and your second husband were separated when he died. Robert is your only child. You and he weren't getting along, and about a year ago he ran away from home. You told the probation officer at that time that you didn't want him back home and that he should go to live with a relative or in a foster home. Later you changed your mind because you felt guilty about giving the boy up. After Robert returned home, things were better between the two of you. You hope that Robert did not steal this car, but if he did, you want to help him the best you can. At the detention hearing, you will tell the judge that you want Robert to come home. At the jurisdiction hearing, you will tell the judge that your son usually tells the truth, but that you don't know for sure if he was at home on the afternoon in question. At the disposition hearing, you will get teary-eyed and plead with the judge not to send Robert away to a boys' ranch. In fact, you'll promise to do just what the courts says if only Robert can be returned home on probation.

WITNESS DAVID JACOBS

You are David Jacobs, a 17-year-old high school senior. You live with your widowed mother and four sisters in a small tract house on Higgins Avenue. On the afternoon in question, you arrived home from school after baseball practice at 4 p.m. As you walked up your street, you noticed a strange car parked out in front of your house. Just then, one of your sisters came outside and started talking to you. You heard a car door close, turned around to look, and saw a boy walking away hurriedly from the car. The boy looked familiar to you but you didn't think anything more about the incident. Later that same evening the police came to your door to inquire about the car parked out in front. You told them about what you saw and said you were pretty sure the boy they were looking for was named Bobby and lived somewhere in the neighborhood. At the jurisdiction hearing, you will tell your story to the court, making a very positive identification of Bobby Jones as the boy you saw getting out of the car.

WITNESS LARRY JENNINGS

You are Larry Jennings, a 13-year-old junior high school student. Your best friend is Bobby Jones, and the two of you often watch television together after school either at Bobby's house or at yours. Both of your mothers work and you're alone every afternoon. You are a skinny little kid and Bobby tries to stick up for you when the bigger kids tease you. You are also very loyal. You like cars.

Decide with your teacher and Bobby Jones what fact situation occurred the afternoon of the theft. You will stick with your story throughout the hearings no matter how hard the District Attorney probes because Bobby is your best friend.

PROCEDURES

DETENTION HEARING

1. The detention hearing may be held in the regular courtroom where the judge hears all juvenile matters or in a special hearing room at the juvenile hall. The detention hearing is usually informal; often the judge does not wear a robe. The participants in the hearing include the judge, court clerk, court reporter, probation officer, juvenile, juvenile's parent(s) or guardian(s), and the attorney, if the juvenile is represented by counsel.

2. Before the hearing begins the probation officer explains to the juvenile and his family what will happen during the proceeding.

3. All parties enter the hearing room and sit down. The probation officer introduces the minor, his family, and any attorney present to the judge or referee.

4. The judge or referee asks the court clerk to read the petition aloud and to swear all persons who wish to speak during the hearing.

5. The judge or referee explains to the juvenile's family why he was taken into custody. He also answers any questions they may have concerning the petition.

6. If the minor is not represented by counsel, the court advises the minor and his family of the minor's right to be represented during every stage of the juvenile proceedings, including the detention hearing. If counsel is waived--that is, if the minor and his parents do not wish to be represented by an attorney--the court must make certain that they know exactly what they are doing. If counsel is requested, the court arranges for an attorney to be present before proceeding with the detention hearing.

7. The court explains to the minor and his family the minor's other constitutional rights:

   a. To remain silent and the fact that anything the minor says about committing the offense can and will be used against him in making a decision concerning his detention.

   b. To confront all witnesses examined by the court at the detention hearing.

   c. To question or cross-examine all witnesses called to testify at the detention hearing.

   d. To present to the court whatever relevant evidence the minor, his family, or his attorney wishes to present.

8. The court asks the probation officer to present whatever evidence he has which indicates that the minor should be detained in juvenile hall until his formal hearing.

9. The court reads any written report prepared by the probation officer. The juvenile, his family and attorney may also read the written report.

10. The court should orally question the minor, his family, or any other person who wishes to say why he believes the minor should or should not be detained.

11. The judge decides if there are one or more reasons why the juvenile should be held. The only sufficient reasons are these:

a. If the juvenile might harm himself.

b. If the juvenile might harm another person or his property.

c. If it is likely that the juvenile would run away and not appear for his hearing.

d. If the minor has violated a court order, for example the terms of his previous probation.

If the minor is to be detained, the judge should tell him and his family why he is being held. If the minor is to be released, the court should outline any conditions of release, i.e., 24-hour supervision by his parents, regular attendance at school until his jurisdictional hearing.

12. The court should make sure that the juvenile and his family understand the decision and should tell them what will be expected of them in the future.

JURISDICTION HEARING

1. The jurisdiction hearing is generally held in a regular courtroom or in a smaller room set up to look like a courtroom. Jurisdiction hearings tend to be formal; the judge will usually wear a robe. The participants in the hearing include the judge or referee; court clerk; court reporter; probation officer; juvenile; juvenile's parent(s) or guardian(s); the attorney for the juvenile if he is represented by counsel; the district attorney who helps the probation officer present the case against the juvenile if he denies the charges; and any witnesses who will testify during the hearing.

2. The jurisdiction hearing begins in much the same way as the detention hearing described above. In fact, steps 2 through 7 are repeated just as they took place during the detention hearing.

3. If the hearing is uncontested--that is, if the juvenile admits that the charges in the petition are true--the judge should explain that by admitting the charges against him the juvenile gives up all of his constitutional rights. The judge should also ask the juvenile's family if they understand the minor's constitutional rights and whether they consent to the minor waiving his rights and admitting the charges against him.

4. If the minor, with his parents' consent, admits the charges in the petition, the judge should question the minor and make sure that he is admitting the petition because he actually committed the offense and that his admission is voluntary.

5. If the judge is sure that the minor committed the offense, the court should announce that the minor now comes under the jurisdiction of the juvenile court.

6. If the hearing is contested--that is, if the juvenile denies the charges against him--the judge should ask the juvenile whether he admits or denies the petition. When the minor denies the petition, the court then proceeds to determine if the charges against the minor are true or false.

7. This part of the jurisdiction hearing is much like an adult criminal trial. All testimony and all material objects introduced as evidence must be relevant to the facts of the case. For example, if the juvenile is charged with stealing a car, the court won't listen to evidence that he shoplifted a bicycle. Nor will the court consider hearsay evidence, for example the testimony of a witness who talked to another person who said he saw the juvenile steal the car. The court will consider the testimony of an eyewitness, for example the owner who actually saw the juvenile drive off in his car. The court will consider the testimony of a witness who saw a boy who looked like the juvenile drive off in his neighbor's car. The court will also consider material objects that relate directly to the case, for example stolen merchandise found in the juvenile's school locker.

8. The probation officer and district attorney present their evidence that the charges against the juvenile are true. The district attorney questions the witnesses against the juvenile. The judge may also question the witnesses directly if he wishes to. After each witness against the minor testifies, the minor's attorney has the right to cross-examine him and try to discredit his testimony.

9. The juvenile's attorney, a court-appointed public defender or a private attorney hired by the juvenile's family, also has the right to present witnesses who will testify for the minor, offering evidence to prove that the charges against him are not true. Again, the judge has the right to question any witness who testifies, and the district attorney has the right to cross-examine the witnesses.

10. After all of the evidence is presented, the judge must decide if the facts in the petition are true. If the judge believes the juvenile did commit the offense, he must announce that the minor comes under the jurisdiction of the juvenile court and that it is up to the court to decide how best to help the minor. If the judge finds the facts in the petition are not true, he must order the petition dismissed and release the minor from custody.

11. Once the jurisdiction hearing is over, the court may continue the case to give the probation officer time to prepare his recommendations concerning the juvenile's future. Or, if the probation officer is ready to proceed, the judge should announce that the court will now hold a disposition hearing to determine what action should be taken to help the juvenile.

DISPOSITION HEARING

1. The disposition hearing may be held immediately following the jurisdiction hearing or it may be held separately a few days later. The hearing is held in the juvenile courtroom unless the judge wishes to talk privately in his chambers with the juvenile's parents or with his attorney. The judge will want to make certain that the juvenile and his family understand the court's plan to help the juvenile and the role the family will play in this plan.

2. The disposition hearing begins in much the same way as do the detention and jurisdiction hearings. In fact, steps 2 through 6 of the detention hearing procedure are again repeated at the beginning of the disposition hearing.

3. The judge points out that the probation officer has prepared a social study which contains background information regarding the juvenile and his family. The judge orders the social study admitted as evidence and then explains its contents to those present. He usually summarizes the report, mentioning the minor's prior offenses, his school record, his relationship with his family, and the minor's own idea about what should be done with him.

4. The judge will tell the family that the probation officer has made a recommendation to him concerning the case (often the family has already been informed of the recommendation by the probation officer), but he will indicate that this is only a recommendation and that the court itself must make the final decision. The judge will then point out the various alternatives available to him for placement of the minor (in the parent's home on probation, in a relative's home, a foster home, a boy's ranch or the California Youth Authority). The judge will then outline the probation officer's recommendations. If he has any doubts about accepting these recommendations, he should say so at this time.

5. The judge next asks the juvenile and his family (also his attorney, if he has one) if they wish to present evidence or make a statement about the disposition of the case. If there is an attorney present he will generally speak for the minor and his parents, indicating whether or not they agree with the probation department's recommendations. If there is no attorney present, the judge will want to ask each parent present how he feels about having the youth returned home on probation or sent to a camp or whatever. The judge will also ask the minor if there is anything he would like to say and whether, if he is returned home, he will stay out of trouble in the future.

6. If the minor is to be returned home, the judge may want to speak privately with his parents regarding their conduct and supervision of the child. In this case, the child will wait outside. When he returns the judge may tell the minor generally what was discussed, but if criticism of the parents was made by the court, this should not be mentioned.

7. The judge may indicate to the minor at this time the seriousness of his offense and then announce his decision regarding future placement. If the child is to be placed in his home, the judge should announce any conditions he expects

the child to observe, e.g., to stay away from certain friends, to obey his parents' orders, etc. If the child is to be placed outside the home, the judge should state his reasons and explain what placement in a county-operated ranch or the CYA will mean to the minor and his family. He should make certain that all of the minor's and his family's questions are answered before concluding the hearing.